Village of Indian Head Park 201 Acacia Drive Indian Head Park, IL 60525

MINUTES VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION CONTINUATION OF PUBLIC HEARING

"Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken."

Tuesday, October 2, 2012 7:30 P.M.

CALL TO ORDER - CHAIRPERSON NOREEN COSTELLOE

A continuation of the public hearing regarding Petition #177 was held by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, October 2, 2012, at the Municipal Facility, 201 Acacia Drive. Zoning Petition #177 was previously presented to the Commission by Mr. Anastasios Katris, owner of the property at 11165 Ashbrook Lane. Mr. Katris is requesting an amendment to the Ashbrook Development Planned Unit Development and variances to allow for a patio/deck open trellis and retaining wall in the rear of the property that encroaches the rear yard setback. The meeting was convened and called to order at 7:30 p.m. by Chairperson Noreen Costelloe.

ROLL CALL: PRESENT (AND CONSTITUTING A QUORUM):

Chairperson Noreen Costelloe Commissioner Diane Andrews Commissioner Timothy Kyzivat Commissioner Earl O'Malley Commissioner Jack Yelnick

NOT PRESENT:

Commissioner Robert Tantillo

ALSO PRESENT:

Harry Fournier, Counsel for Mr. Katris Dennis Schermerhorn, Zoning Trustee Debbie Anselmo, Zoning Trustee

PLEDGE OF ALLEGIANCE TO THE FLAG

Chairperson Noreen Costelloe and the Planning and Zoning Commission members led the audience in reciting the Pledge of Allegiance to the Flag as follows: "I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all".

QUESTIONS AND/OR COMMENTS FROM INDIAN HEAD PARK RESIDENTS/PROPERTY OWNERS IN ATTENDANCE REGARDING ZONING AGENDA ITEMS

None

PUBLIC HEARING HELD BEFORE THE VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION (PUBLIC COMMENTS RECEIVED AFTER DISCUSSIONS BY THE PLANNING AND ZONING COMMISSION MEMBERS AND PRIOR TO VOTES)

ZONING AGENDA ITEMS:

1. Petition #177 - A Petition for an amendment to the Ashbrook Development Planned Unit Development and rear yard variance concerning a request for an above grade patio area with an open arbor roof and retaining wall that encroaches the rear yard setback at 11165 Ashbrook Lane, Indian Head Park.

Chairperson Costelloe stated the public hearing regarding Petition #177 was continued to this evening to allow the petitioner additional time to gather information to be presented to the Commission. Commissioner Costelloe further stated that additional information was submitted by Mr. Harry Fournier, counsel for Mr. Katris, prior to zoning meeting.

Harry Fournier stated the new materials presented were in response to the request from the Planning and Zoning Commission at the last meeting with regard to this petition. Mr. Fournier presented the following exhibits to the Planning and Zoning Commission: (1) an original plat of survey dated August 9, 2010 showing the concrete patio at the time Mr. Katris purchased the property in question; (2) a revised approval letter from Joe Miks, President of the Ashbrook Estate Homes Association, referencing the stone patio with stone wall and wooden pergola; (3) a copy of the landscape contractors application for a Contractor Business License dated August 24, 2011; (4) letter of approval from Charles Eck, President of the Ashbrook Townhome Association;

and (5) timeline of events from the beginning of the project through completion of the patio and pergola. Mr. Fournier stated he was asked to come to the meeting tonight to present a compelling reason as to why the Commission should approve this patio and pergola that encroaches the rear yard setback by about forty-seven percent (47%).

Mr. Fournier stated that there has been no resident opposition to the zoning request; the comments have been positive regarding the quality of the finished patio and pergola which enhances the property value and the home. He asked what the purpose of the forty-foot (40") rear yard setback would be and stated the purpose may be possibly for drainage and also for some space to remain open. Mr. Fournier further stated that the previous concrete slab at-grade patio did not allow for adequate drainage whereas the current stone paver patio may allow for better drainage because it is not a solid concrete slab.

Mr. Fournier further stated even though the code defines a pergola as a structure because it is attached to the house, the pergola is open on three sides and there is a minimal intrusion into the open space area. He added if the pergola was constructed twenty-five percent (25%), thirty percent (30%) or it came in at forty-five percent (45%) or forty-eight percent (48%) into the open area, it would be a minimal impediment because there are two support beams with the pergola on top open on three sides.

Chairperson Costelloe stated the Commission will review the concrete patio base and pergola as separate matters. She noted the elevated concrete patio also requires a rear yard variance because it was not constructed at grade. Chairperson Costelloe inquired what the elevation of the concrete patio would be from the furthest south side of the residence. Mr. Fournier stated the landscape architect raised the grade slightly in some areas for the new patio so there would be one step down to the patio. Chairperson Costelloe and Commissioner Kyzivat stated the elevation in grade is much higher at the end of the lot. Mr. Fournier stated due to the elevation in grade a retaining wall was needed to support the patio. Chairperson Costelloe stated the code allows for at-grade patios 12" or lower which is a permitted obstruction and may encroach into the rear yard setback. However, structures above 12" that encroach into setbacks require a zoning process.

The Commission members reviewed and discussed the design plans for the patio and pergola that was constructed to review elevations. Mr. Fournier stated the new patio was constructed larger than the previous patio that was removed. Commissioner Jack Yelnick asked if the previous patio had two risers coming off the back of the house to the patio area. Mr. Fournier stated that he believed that was correct and at the time his client purchased the property, the patio had already settled and it was dangerous coming out of the back of the house down to the patio. Commissioner Yelnick stated when the new patio was constructed the rear yard grade must have been raised and one step was taken out to create one step and another step was added off the rear of the property out of the back of the house. Mr. Fournier stated that there was only originally one step down to grade off the back of the house down to the original patio. Commissioner Yelnick stated it would be impossible to have only one step off the back of the house on the original patio with the slope of the grade because it would not have met Village code.

Mr. Fournier stated the first plat of survey showing the original patio had no step and the new survey showing the as-built patio has one step from the back of the house down to the patio. Chairperson Costelloe stated the original patio that was built was at-grade and did not intrude into the rear yard setback where the grade started falling on the south end of the property. Chairperson Costelloe stated there are some mitigating issues due to the slope of the back yard. Commissioner Yelnick stated that if the contractor had built the new patio according to the original plan and patio that was built previously, that patio would have been lowered another seven inches (7") because there were two original risers. He pointed out one step off the back of the house was eliminated when the new patio was constructed, one step was added on the outside of the patio and the grade of the property increased. Mr. Fournier asked if it was possible that different type of stone was used and one step was larger than the two original steps down to the patio. Commissioner Yelnick stated the riser depth must have a certain ratio to meet code and should be 7.5" to 11.5".

Chairperson Costelloe stated one of the reasons the Village has established codes is to maintain some open land areas as it pertains to structures, the patio and pergola is beautiful and less invasive than other structures but it does contradict the regulations of the zoning code requirements.

Mr. Fournier stated a pergola on another property was approved a few years ago in the Ashbrook Development through a zoning process which does not extend as far out into the required yard setbacks. Chairperson Costelloe stated an amendment to the Ashbrook Planned Unit Development and a 4.92' variance was granted previously for another property in Ashbrook to construct a pergola. Commissioner Andrews asked if Mr. Katris would be willing to remove a portion of the pergola structure after the first set of posts to minimize the variance needed with the supporting roof to remain open.

Mr. Fournier stated that he is not sure if it would be possible to remove half of the entire structure because there may be support columns in the middle of the patio. After discussion by the Commission, the suggestion is for the pergola structure to be reduced by 9' 11" (the structure beyond the first set of posts). Chairperson Costelloe stated the existing patio and pergola encroaches approximately five-feet (5') into the rear yard setback up to the first set of posts which is about the same variance that was granted for another property in Ashbrook.

Chairperson Noreen Costelloe pointed out the Commission is not required to review Findings of Fact in zoning matters that involve a Planned Unit Development because the Commission is voting to approve an amendment to a special use in a P.U.D.

Chairperson Costelloe entertained a motion to make a recommendation to the Village Board to grant an amendment to the Ashbrook Development Planned Unit Development and rear yard variation to approve the patio as built. Commissioner O'Malley moved, seconded by Commissioner Yelnick, to approve a patio measuring 9' by 11" in the rear yard. Carried by roll call vote (4/1/1).

Aye: Chairperson Noreen Costelloe

Commissioners: O'Malley, Kyzivat, Yelnick

Nay: Andrews Absent: Tantillo

Chairperson Costelloe entertained a motion to make a recommendation to the Village Board to grant an amendment to the Ashbrook Development Planned Unit Development and rear yard variation for the pergola.

Commissioner Kyzivat asked if the stair on the south end of the property would remain open or if the pergola would be closed on that side when a portion is removed. Commissioner Yelnick stated only support columns would be removed beyond the first posts and the pergola would remain open. Mr. Fournier stated if the pergola is shortened the ends would need to be supported. Commissioner O'Malley stated that the recommendation is to preserve a portion of something that was built without prior approval which is consistent with other variances that have been granted by the Commission.

Commissioner Yelnick moved, seconded by Commissioner Kyzivat, to recommend to the Village Board to allow for a pergola to grant a rear yard variance of 4' 11" beyond the buildable area in the rear yard subject to the following conditions: (1) the remaining portion of the pergola, approximately ten-feet (10') beyond the first set of support posts to be removed by the property owner; (2) the structure must remain open on all sides; (3) vegetation screening to be installed; (4) no permanent lawn ornamentation of any kind to be installed from the west side of the driveway to the west side of the patio and no permanent lighting to be hung from or attached to the pergola (seasonable lighting or temporary lighting no longer than 48 hours for special occasions is allowed). Carried by unanimous roll call vote (5/0/1).

Aye: Chairperson Noreen Costelloe

Commissioners: Andrews, O'Malley, Kyzivat, Yelnick

Nay: None Absent: Tantillo

Mr. Fournier stated that the Ashbrook Association Landscape Committee has certain rules that homeowners must follow also and screening would be addressed with the Association.

Commissioner Yelnick stated that the timeline of events presented to the Commission stating the landscape contractor visited the Village to obtain a permit and was informed a permit was not needed. He added possibly the contractor had initially planned to rebuild the patio at grade, which does not require a permit. However, the scope of work completed by the contractor exceeded the initial plan for the project which included an above grade patio, retaining wall and pergola roof. Commissioner Yelnick stated the contractor did not recall any particular person he spoke with but only that he obtained a contractor business license in August, 2011.

Mr. Fournier stated that the contractor may have spoken with the building inspector at time who also visited the site to issue a stop work order. However, the stop work order was not issued at that time because the project was almost completed on the date of the visit and the inspector reviewed the project that was underway to make sure it was property constructed. Mr. Fournier further stated that he spoke with Frank Alonzo, the Village Administrator, to find out if the inspector had any paperwork on this project.

Commissioner Yelnick stated that Frank Alonzo sent numerous letters over many months to the property owner stating the patio, retaining wall and pergola structures had been built without prior approval or a permit from the Village and there were no responses. Mr. Fournier stated he became involved in this matter at that time.

Commissioner Andrews stated when she asked the contractor at a previous meeting when he changed the plans did he go to the Village and he stated, no. She added any time plans are revised, that needs to be reviewed and approved before proceeding with the project. Commissioner Andrews further stated that possibly the reason the inspector was at the site was that the Village sent him out to provide a report on the project that was underway without a permit.

Mr. Fournier apologized for any confusion with this project along the way, he verified as much as possible leading up to the matter before the Commission and the contractor no longer works for that company so it was difficult to obtain any further paperwork on the project that was completed. Mr. Fournier stated he appreciated all of the efforts of the Commission over the past few months with regard to this zoning matter.

Chairperson Costelloe stated the report and recommendation will be presented to the Village Board at the Thursday, October 11th meeting.

APPROVAL OF PLANNING AND ZONING COMMISSION MINUTES

After review of prior meeting minutes, Commission Andrews moved, seconded by Commissioner O'Malley to approve minutes as presented to the Commission. Carried by unanimous voice vote (5/0/1)

ADJOURNMENT

There being no further business to discuss before the Commission, Commissioner Andrews moved, seconded by Commissioner Yelnick, to adjourn the meeting at 8:25 p.m. Carried by unanimous voice vote (5/0/1).

Respectfully Submitted, Kathy Leach, Recording Secretary Planning and Zoning Commission